



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI

GOVERNOR

DAVID P. LITTELL

COMMISSIONER

MEMORANDUM

TO: The Board of Environmental Protection

FROM: Jon Cullen, Bureau of Land & Water Quality, Bangor

RE: Consent Agreement for McLaughlin's Timber Trucking, Inc.

DATE: April 15, 2010

Statute and Rule Reference: *The Natural Resources Protection Act*, 38 M.R.S. § 480-C, prohibits soil disturbance in and adjacent to a river, stream or brook without first obtaining a permit from the Department.

The Protection and Improvement of Waters Act, 38 M.R.S.A. § 413, states, in pertinent part, that no person shall directly or indirectly cause soil material to be discharged into waters of the State without a permit therefore from the Department.

Location: Orrington, Maine

Description: On May 9, 2008, a staff inspection revealed that during the process of harvesting timber, McLaughlin's Timber Trucking, Inc. had crossed a stream in three locations with harvesting equipment. In one instance, the crossing caused the stream to be diverted from its bed for a distance of some 200 feet. In addition, the crossing activities caused soil material to be discharge into the brook at each location. Neither McLaughlin's Timber Trucking, Inc. nor the landowner obtained a permit from the Department prior to undertaking this activity.

Environmental Issues: Altering a stream channel and disturbing soil in and adjacent to a river, stream or brook exposes soil such that it is in a position to wash into the resource. This activity degrades the transition zone between wetland/stream and upland habitats, which are used as travel corridors for mammals and nesting sites for avian species. The disturbance within the buffer area can result in the release of silt and nutrient loads into the system affecting the many freshwater organisms that depend on the use of submerged area for a portion of their life cycle.

Department Recommendation: The Department recommends acceptance of this Consent Agreement stipulating that McLaughlin's Timber Trucking, Inc. pay a monetary penalty of \$1,940.00, which has been paid. The crossings have been stabilized and the de-watered portion of stream channel restored. In addition, Jay McLaughlin and three employees, including the operator directly responsible for the crossings, attended skidder bridge mat construction training sponsored by the Certified Logging Professional program. The penalty is based on the Department's penalty policy reflecting the size of the violation, knowledge of the violator, and that the violation could have been avoided.

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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

| | | |
|---|---|-------------------------------|
| MCLAUGHLIN'S TIMBER TRUCKING, INC. |) | ADMINISTRATIVE CONSENT |
| ORRINGTON, MAINE |) | AGREEMENT |
| NRPA, §413 |) | (38 M.R.S.A. § 347-A) |
| 2008-062-L |) | |

This Agreement, by and among McLaughlin's Timber Trucking, Inc., the State of Maine, Department of Environmental Protection ("Department"), and the State of Maine, Department of the Attorney General ("AG"), as approved by the Maine Board of Environmental Protection ("Board"), is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

The parties agree as follows:

1. Dwayne Eunson owns a parcel of land at 542 Betts Road in Orrington, Maine as described and recorded in Book 10181 on Page 161 of the Penobscot County Registry of Deeds.
2. McLaughlin's Timber Trucking, Inc. is a Maine corporation in good standing to conduct business in Maine and maintains its principal corporate office in Medway Maine. Jay McLaughlin is the President of McLaughlin's Timber Trucking, Inc.
3. McLaughlin's Timber Trucking, Inc. was hired by Dwayne Eunson to conduct a timber harvest on property described in Paragraph 1 of this Agreement.
4. The property described in Paragraph 1 of this Agreement contains a portion of a river, stream or brook as defined by the *Natural Resources Protection Act*, 38 M.R.S.A. § 480-B(9), and waters of the State as defined by the *Protection and Improvement of Water Law*, 38 M.R.S.A. § 361-A(7).
5. On May 9, 2008, Department staff conducted an inspection of the property described in Paragraph 1 of this Agreement and found that McLaughlin's Timber Trucking Inc. had, in course of logging the parcel, crossed an unnamed stream three times. The lowest of the three crossings had caused the stream to be diverted into a skid trail that paralleled the stream channel for a length of 200 feet. The diversion caused the 200 feet of stream to be dewatered. Staff noted that soil had been discharged into the stream at each of the three crossings. Staff did not note any erosion controls at the stream crossings during the May 9, 2008 inspections.

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| 2008-062-L |) | |

6. By dewatering 200 feet of a river, stream or brook without first obtaining a permit from the Department, McLaughlin's Timber Trucking, Inc. violated the Natural Resources Protection Act, 38 M.R.S.A. §480-C.
7. By causing the discharge of a pollutant, namely gravel, to waters of the state without first obtaining a permit from the Department, McLaughlin's Timber Trucking, Inc. violated the Protection and Improvement of Waters Act, 38 M.R.S.A. §413.
8. On June 6, 2008, the Department issued a Notice of Violation to McLaughlin's Timber Trucking, Inc. regarding the violation(s) described in Paragraphs 5 through 7 of this Agreement.
9. On May 11, 2009, Department staff re-inspected the property described in Paragraph 1 of this Agreement. The inspection revealed that McLaughlin's Timber Trucking, Inc. had restored and stabilized the stream. The restoration and stabilization was completed to staff's satisfaction.
10. On November 20, 2009, Jay McLaughlin and three employees attended and completed a skidder bridge mat construction workshop sponsored by the Certified Logging Professional program.
11. The Board has regulatory authority over the activities described herein.
12. This Agreement shall become effective only if accepted by the Board and approved by the Attorney General.
13. To resolve the violations referred to in Paragraphs 5 through 7 of this Agreement, McLaughlin's Timber Trucking, Inc. agrees to pay the Treasurer, State of Maine, upon signing this Agreement, the sum of One Thousand Nine Hundred Forty dollars (\$1940.00) as a civil monetary penalty.
14. The Board and the State of Maine Attorney General grant McLaughlin's Timber Trucking, Inc. a release of their causes of action against McLaughlin's Timber Trucking, Inc. for the specific violations listed in Paragraphs 5 through 7 of this Agreement on the express condition that all actions listed in Paragraph 13 of this Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until this condition is satisfied.

IN THE MATTER OF:

MCLAUGHLIN'S TIMBER TRUCKING, INC.
ORRINGTON, MAINE
NRPA, §413
2008-062-L

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ADMINISTRATIVE CONSENT
AGREEMENT
(38 M.R.S.A. § 347-A)

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of three (3) pages.

MCLAUGHLIN'S TIMBER TRUCKING, INC.

BY: Jay McLaughlin DATE: 1-10-2011
JAY MCLAUGHLIN, PRESIDENT

BOARD OF ENVIRONMENTAL PROTECTION

BY: _____ DATE: _____
SUSAN M. LESSARD, CHAIR

SEEN AND AGREED TO:
STATE OF MAINE

BY: _____ DATE: _____
MARGARET A. BENSINGER, ASSISTANT ATTORNEY GENERAL